



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 3151-99

2 June 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 31 May 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 30 July 1998 for four years at age 19. The record reflects that during the month of September 1998, while still in recruit training, you were counseled regarding disrespect, communicating a threat, anger management, and what was expected of you in the division. You were placed in a remedial swim class on or about 29 September 1998.

On 14 October 1998, another recruit reported that you had wet the bed. You were referred to the recruiting evaluation unit for evaluation. However, that evaluation is not on file in the record. Your recruit performance record indicates the examining psychologist stated that you could benefit from extra practice time and one-on-one swimming instruction, and were highly motivated to remain in the Navy and learn to swim. You were instructed on relaxation techniques to use at the swimming pool,

and it was recommended that you be returned to the recruit evaluation unit if you had another documented episode of enuresis.

The recruit performance record notes that on 16 October 1998 you were caught talking to a female recruit in an unprofessional manner. When directed to fill out a demerit chit, you took off, disobeying an order to "stand fast." On the same day, you reported to physical training (PT) without wearing the required PT shorts. It was noted that you gone through the "PASS Program", received counseling and attended motivational training, but had shown no signs of improvement. The following day you were ordered to purchase some PT shorts at the Navy exchange so you could be in the proper uniform. On 26 October 1998, the recruit performance record reflects that you continued to have a hard time coping with the ways of recruit training and the Navy. You were totally unmotivated, lacked military bearing, and had failed to apply the skills learned as a "PASS" graduate. An entry level separation was recommended.

On 13 November 1998 you were notified that you were being considered for an administrative separation by reason of entry level performance and conduct as evidenced by your failure to adapt to the naval environment. You were advised of your procedural rights, declined to consult with counsel, and waived the right to have your case reviewed by the general court-martial convening authority. The discharge authority directed an uncharacterized entry level separation by reason of entry level performance and conduct. You were so discharged on 4 December 1998.

The Board noted your contention that you were not afforded after-hours swimming lessons or other considerations that were afforded to white recruits. You claim you were discriminated against by all company commanders because you filed a grievance against your own company commander. However, you provide no corroborating evidence to support your claims of favored treatment or discrimination. The record clearly documents that you had problems not only with swimming, but with conduct and overall adjustment to the military. Regulations require the assignment of an RE-4 reenlistment code to individuals separated due to entry level performance and conduct. Since you were treated no differently than others separated under similar circumstances, the Board could find no error or injustice in your assigned reenlistment code. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the

Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director